Utah Charter School
Credit Enhancement Program
Standards for Participation

Established by SB 152 of the 2012 Utah legislative general session, the Charter School Credit Enhancement Program provides qualifying Utah charter schools with a means of obtaining favorable financing, and is enacted within Utah Code section 53A-20b-201 et seq[1]. As detailed within subsections (2) and (3) of section 201, these Standards for Participation establish the criteria for a charter school to be designated as a qualifying charter school for purposes of issuing bonds pursuant to the Charter School Credit Enhancement Program.

Basic Eligibility

1. Availability of the Utah Charter School Credit Enhancement Program (Program) is limited to those Applicants issuing bonds through the Utah Charter School Finance Authority (UCSFA).

2. The Applicant must be in compliance with all chartering requirements under the Utah Code and all terms of the charter agreement between the Applicant and its chartering entity. The UCSFA will obtain from the Applicant's chartering entity a certificate that verifies the charter is in place, that the Applicant is in good standing, is meeting all chartering requirements and criteria established within the charter agreement, that there are no serious outstanding or unresolved concerns relative to the Applicant and in the case of Applicants chartered by the State Charter School Board (SCSB), that there are no outstanding deficiencies as defined within R277-481.

3. The Applicant must obtain an underlying investment grade rating from Fitch Ratings, Moody's Investors Service, or Standard & Poor's Corporation. The Applicant will provide a copy of the rating presentation and rating report, verifying that the rating is in place for the bonds the UCSFA is being asked to issue. The UCSFA will also analyze the ratings report to note any credit weaknesses outlined therein, and will take such credit weaknesses into account in determining the Applicant's eligibility for participation in the Program.

4. The Applicant must demonstrate a stable and/or improving financial operating history for at least three years and provide independently audited financial statements for the most recent five years (if the Applicant has been in operation that long).

5. The Applicant must provide a statement explaining its approved mission and describing any special emphasis offered within its curriculum.

6. The Applicant must certify that either it has or has not previously borrowed proceeds from a tax-exempt or other tax advantaged financing, and that it is not in default under any of the transaction documents related to such financing, including, but not limited to, continuing disclosure filing obligations, arbitrage rebate calculations, and filing of Form 990 (as applicable).

[1] Subsequent statutory and administrative rule citations shall be to the Utah Code and Utah Administrative Code, respectively, unless otherwise noted.

Enrollment/Student Demand

7. The Applicant should have minimum enrollment of 400 students. The UCSFA will consider an Applicant with enrollment of less than 400 students for Program eligibility if the Applicant's waiting list is large enough to offset the greater risk which is associated with smaller enrollment.

8. The chartering entity must include in its letter of certification to the UCSFA (discussed under #2 above) an enrollment history for the Applicant since its inception, broken down by grade, and totaled. This information must include the numerical limit on enrollment as listed in the Applicant's charter agreement. A drop in total enrollment in any of the most recent 5 years must be analyzed and satisfactorily explained by the Applicant. Total enrollment should be stable or increasing. Enrollment that has dropped by more than 5% in either of the two most recent years, or by more than 10% in the most recent year, is a negative factor.

9. The chartering entity will also certify that the Applicant's most recent total re-enrollment rate is not less than 80%[2]. If the most recent re-enrollment rate is less than 80%, the Applicant must demonstrate that it serves a student population with unique itinerant characteristics and a history of enrolling new students that consistently offsets the risks of a low re-enrollment rate.

10. The Applicant must maintain, for the three consecutive years preceding application, an Average Daily Membership ("ADM") rate, as calculated by the chartering entity, of 90% or greater.

11. The Applicant must provide the following:
    a. Its waiting list for enrollment by grade. The waiting list must be maintained electronically and updated annually. Each student on the waiting list must be updated and confirmed electronically or in writing each year. Waiting list details must include the date each application was received or confirmed, and duplicate applications must be eliminated from the waiting list as part of the annual update and confirmation process. When a child is accepted or declined for enrollment, that child must be removed from the waiting list. The Applicant must certify to the UCSFA as to the waiting list's accuracy and effective date.
    b. Its annual re-enrollment rate by grade for the three consecutive years preceding application.

Academic Performance

12. The Applicant's chartering entity will include within its certification a determination that the Applicant's academic performance is adequate to maintain its enrollment plans, summarizing:
    a. Applicable academic performance standards;
    b. The Applicant's performance relative to those standards, and
    c. The analysis used by the chartering entity to make such determination.

Management

13. The Applicant shall have in place sound and detailed management policies and practices, adopted by its board, which guide all aspects of financial, debt, and risk management, including policies dictating minimum reserve and coverage levels, and post issuance compliance requirements. The Board should

[2] Chartering entities other than the SCSB must calculate re-enrollment rate using the same methodology used by SCSB.

also have a succession plan for key personnel and a contingency plan for the potential loss of key expertise, which should clearly document board recruiting plans and activities in detail.

14. The Applicant's board should include members with legal, accounting and education expertise. Board members should serve staggered terms and should not be involved in, or related to any individual that is involved in the day-to-day management of the school. Exceptions must be disclosed to the UCSFA and maintained in conformity with the provisions of 53A-1a-518. High turnover rates among board members will be a negative factor.

15. The Applicant must employ a financial officer who has been trained in accounting and/or finance, who should have at least five years of experience in the finance or accounting industries, and who has demonstrated the ability to maintain accurate financial books and records. Alternatively, the Applicant may employ a charter school management company with proven expertise and a good track record for at least three years in the financial management of charter schools.

16. The chartering entity must also certify that the Applicant has demonstrated reasonable proficiency in forecasting revenues and expenditures as shown by a comparison of budgeted to actual revenues and expenditures for each of the last three years. Actual revenues and expenditures should deviate no more than 5% from budget over the last three years. Deviations greater than 5% must be satisfactorily explained by the Applicant and such explanation must be supported with relevant data.

Financial Performance

17. Enrollment, WPU and cash flow projections must be based on reasonable, conservative and well-developed assumptions. Projected enrollment will be compared to the capacity of the projected facilities as well as to the timing of the availability of new facilities to be constructed with bond proceeds. Projected cash flows that depend upon rapid enrollment growth could be a negative factor.

~~17.~~18. All calculations of projected debt service must utilize interest rates which assume the debt is *unenhanced.*

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~~18.~~19. The Applicant must meet the following Debt Coverage Ratio at the time of application:

If Enrollment is:	Then	Debt Coverage Ratio must be:
Less than 350		At Least 120%
351 to 499		At Least 115%
500 to 750		At Least 110%
Over 750		At least 105%

Further, the Applicant must demonstrate stable and/or improving performance as measured by this ratio, demonstrating substantial compliance for the three years prior to application.

The Debt Coverage Ratio is calculated using the following formula:
(revenues – expenditures + interest cost + depreciation) divided by annual debt service

Or, if facilities are being leased:

(revenues – expenditures + facility lease payment + real property taxes + depreciation) divided by projected annual debt service

~~19.~~20. The Applicant must meet the following Debt Burden Ratio at the time of application:

If Fund Balance is:	Then	Debt Burden Ratio must be:
8% to 12%		Less than 20%
12% to 15%		Less than 23%
Over 15%		Less than 25%

Further, the Applicant must demonstrate stable and/or improving performance as measured by this ratio, demonstrating substantial compliance for the three years prior to application.

The Debt Burden Ratio is calculated as maximum annual debt service divided by unrestricted operating revenues. The Fund Balance Ratio is calculated as unrestricted cash (excluding debt service related cash) divided by operating expenditures.

~~20.~~21. The Applicant must meet the following Operating Margin requirement at the time of application:

If Days Cash On Hand is:	Or	Fund Balance is:	Then	Operating Margin Must be:
30 to 40 days		8% to 11%		At least 10%
41 to 55 days		12% to 15%		At least 9%
56 to 65 days		16% to 18%		At least 8%
Over 65 days		Over 18%		At Least 7%

Further, the Applicant must demonstrate stable and/or improving performance as measured by this ratio, demonstrating substantial compliance for the three years prior to application.

Days Cash On Hand is defined as cash as shown on the Applicant's financial statements divided by the quotient of operating expenses divided by 365.

The Operating Margin (also known as the "working capital reserve") is defined as (unrestricted operating revenues less unrestricted operating expenses + interest cost + depreciation) divided by unrestricted revenues.

If facilities are being leased, then the Operating Margin is defined as (unrestricted operating revenues less unrestricted operating expenses + facility lease payment + real property taxes + depreciation) divided by unrestricted revenues.

Days Cash On Hand and Fund Balance will be exclusive of any bond proceeds and may include federal funds receivable for services already rendered or for expenditures previously incurred.

~~21.~~22. The Applicant's Current Ratio should be at least 150% at the time of application.

Further, the Applicant must demonstrate stable and/or improving performance as measured by this ratio, demonstrating substantial compliance for the three years prior to application.

The Current Ratio is defined as current assets (excluding restricted assets) divided by current liabilities which excludes short term debt such as lines of credit and loans used for operating purposes.

Bond Documents

~~22.~~23. The Applicant's legal bond documents must include the following:

a. The debt must be a full faith and credit general obligation of the Applicant;
b. Bond purchasers must be granted a first lien mortgage on the facilities being constructed, purchased or refinanced with bond proceeds;
c. A fully-funded debt service reserve fund held by a Trustee. The reserve must be equal to maximum annual debt service on the bonds. (This reserve is separate from and in addition to the Charter School Reserve Account.) The bond documents must require that the Trustee report to the UCSFA immediately any deficiency in loan payments to be deposited in the bond fund. In addition, the Trustee must be required to notify the UCSFA by November 15th of each year regarding any shortfall in the Applicant's debt service reserve fund;
d. Debt service payments must be structured to allow for timely appropriation by the legislature to restore amounts on deposit in the Applicant's debt service reserve fund if ever drawn upon (e.g. semiannual payments of April 15 and October 15);
e. A flow of funds schedule that allows the Trustee to intercept WPU revenues and capture debt service payments and other related amounts before the remaining funds are transferred to the Applicant;
f. A covenant that the Applicant maintain sufficient insurance on all facilities which act as collateral for the bond issue;
g. A covenant that the Applicant maintain a minimum debt coverage ratio (based on projected maximum annual debt service) throughout the life of the bonds equal to the table found under #18 above;
h. An additional bonds test coverage ratio wherein projected net available revenues must be equal to the table found under #18 above. Exceptions may be made for refunding bonds if, after the refunding, annual debt service payments decrease.
i. An acceptable environmental assessment report (at minimum a Phase I report);
j. Provisions that require that the Applicant obtain the consent of the UCSFA related to changes in the debt service reserve requirements, amendments to the Indenture or Supplemental Indenture, and changes to the maturity schedule of the bonds, including acceleration;
k. Provisions that require the Applicant to provide notice to the UCSFA in the event of any defaults, draws on debt service reserve funds, bond refundings, changes in the Trustee, the commencement of any legal proceedings against the Applicant, or the commencement of any bankruptcy proceedings;
l. A covenant that in the event of a draw on the state's moral obligation, that Applicant will replenish those monies to the State by reimbursing the Charter School Reserve Account;
m. The proposed debt service schedule must provide for roughly level annual debt service payments (P&I) after any initial capitalized interest period or a period of projected enrollment growth not exceeding two years, and allowing for the application of the debt service reserve fund to the final payment on the bonds. The schedule may not incorporate or take into consideration the annual assessment which is described under #29 below.

~~23.~~24. In the event of a draw on the state's moral obligation, the UCSFA must be granted the same rights typically provided to bond insurance companies. These include:

a. the right to step into the shoes of the bond holders and direct proceedings to enforce remedies under the terms of the Program and bond loan documents including the right to mandate certain expenditure reductions and controls and to accelerate the bond debt;
b. the right to receive notices;
c. indemnification by the Applicant for expenses in connection with the enforcement, defense, or preservation of rights under the Indenture, including litigation.

~~24.~~25. The Applicant must covenant with the UCSFA that it will supply certain continuing disclosure information to allow the UCSFA to monitor certain key financial information and student demand. At a minimum, that information should include:

a. annual financial statements (including the auditor's certification of compliance with all debt coverage requirements)
b. bond payment and debt service reserve summary statements from the Trustee
c. updated waiting list for enrollment by grade. Each student on the waiting list must be updated and confirmed electronically or in writing. Waiting list details must include the date each application was received or confirmed, and duplicate applications must be eliminated from the waiting list as part of the annual update and confirmation process. When a child is accepted or declined for enrollment, that child must be removed from the waiting list.
d. three years' current enrollment history, broken down by grade and totaled.
e. three years' current re-enrollment data by grade level.

~~25.~~26. The Applicant must covenant with the UCSFA to file with the MSRB's Electronic Municipal Market Access (EMMA) website the following:

a. the school's annual budget within 30 day of its adoption;
b. the school's unaudited quarterly financial statements within 60 days of the end of each calendar quarter, which shall include a comparison of such calendar quarter to the budget of the school; any information provided to any rating agency then rating the school's bonds as part of such rating agency's ongoing surveillance. Such information must also be provided to the UCSFA.

~~26.~~27. In November or December each year, commencing on or about the first November following the issuance of bonds approved for enhancement by the Authority, the Applicant shall arrange an annual conference call with registered owners, beneficial owners, and potential purchasers of the bonds, regarding the Applicant's performance for the period ending June 30. The call shall address, at a minimum:

a. Enrollment data and trends
b. Budget overview
c. Discussion of fiscal year-end financial statements and the final audit thereof
d. Academic performance
e. Financial performance
f. Other material factors or events which reflect the school's performance outlook

The Applicant shall provide at least 30 days' notice of such calls to the Electronic Municipal Market Access system for municipal securities disclosure established by the MSRB and accessible at http://emma.msrb.org ("EMMA").

~~27.~~28. The Applicant must covenant that in the event it fails to meet its debt service coverage requirements, management will immediately report the event to the UCSFA and pursue cost containment measure and/or efforts to increase enrollment.

Program Fees

~~28.~~29. The UCSFA will assess a one-time, up-front fee equal to 1.5% of the par amount of the bond issue. This fee will be payable upon bond closing and will be deposited into the Charter School Reserve Account net of any fees and expenses of the UCSFA. This fee will **not** be returned to the Applicant upon final payment of the bonds, but will remain the property of the State of Utah. No new up-front fees will be charged for refunding issues if the bonds being refunded were issued under the Program and subjected previously to the up-front fee.

~~29.~~30. The UCSFA will charge an annual assessment equal to 0.20% of the principal amount outstanding. This assessment is due on July 1 of each year the bonds are outstanding and will be deposited into the Charter School Reserve Account net of any fees and expenses of the UCSFA. The annual assessment is charged in addition to the up-front fee discussed under item #28 above.

~~30.~~31. If a participating Applicant fails to meet any of the covenants contained in the bond documents or its charter agreement, the UCSFA may increase the annual assessment deposited into the Charter School Reserve Account up to 0.50% of the principal amount outstanding.

Other

~~31.~~32. The UCSFA will review these standards annually for the first three years of the program to determine their effectiveness and the results of their application.

33. The UCSFA will prepare an annual report to the SCSB and chartering entities detailing the applications received under this program and the disposition of those applications.

~~32.~~34. Applicant may only contract with a financial advisor designated by the Authority as a Prequalified Firm. Agreement between Applicant and the selected Prequalified Firm shall incorporate the Authority's Participating Entity Addendum, copy of which must be supplied as part of the Applicant's application for financing.

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